

Senate Engrossed House Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

CHAPTER 120

HOUSE BILL 2061

AN ACT

AMENDING SECTION 11-311, ARIZONA REVISED STATUTES; REPEALING SECTIONS 11-312 AND 11-313, ARIZONA REVISED STATUTES; AMENDING SECTION 36-831, ARIZONA REVISED STATUTES; RELATING TO BURIAL DUTIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 11-311, Arizona Revised Statutes, is amended to
3 read:

4 11-311. Appointment of veteran to supervise burial

5 The board of supervisors shall appoint any honorably discharged veteran
6 of any branch of the military establishment of the United States who is a
7 resident of the county, ~~who shall cause to be decently interred the body of~~
8 ~~any honorably discharged veteran in the enlisted personnel of the military~~
9 ~~establishment dying outside a national or state soldiers' home, or surviving~~
10 ~~spouse of any honorably discharged veteran of any branch who dies without~~
11 ~~sufficient means for funeral expenses~~ TO OVERSEE THE FINAL DISPOSITION OF
12 INDIGENT VETERANS AND THEIR SPOUSES WHOSE FINAL ARRANGEMENTS ARE COORDINATED
13 THROUGH THE COUNTY PURSUANT TO SECTION 36-831. A PERSON APPOINTED PURSUANT
14 TO THIS SECTION SHALL ENSURE THAT ARRANGEMENTS MADE BY THE COUNTY CONFORM TO
15 THE PROPER PRACTICES FOR VETERANS AND THAT, IF BURIAL OCCURS, THE BURIAL IS
16 MADE IN A VETERANS' CEMETERY OR A PORTION OF A CEMETERY THAT IS DESIGNATED
17 FOR THE BURIAL OF VETERANS AND SPOUSES OF VETERANS.

18 Sec. 2. Repeal

19 Sections 11-312 and 11-313, Arizona Revised Statutes, are repealed.

20 Sec. 3. Section 36-831, Arizona Revised Statutes, is amended to read:

21 36-831. Burial duties; notification requirements; failure to
22 perform duty; definitions

23 A. Except as provided pursuant to subsection F- G OF THIS SECTION, the
24 duty of burying the body of or providing other funeral and disposition
25 arrangements for a dead person devolves in the following order:

26 1. If the dead person was married, on the surviving spouse.

27 2. If the dead person was a minor, on the parents.

28 3. If the dead person has no surviving spouse, on the adult children
29 of the dead person.

30 4. If none of the persons named in paragraphs 1, 2 and 3 of this
31 subsection are financially capable of providing for the burial or other
32 funeral and disposition arrangements, or cannot be located on reasonable
33 inquiry, on any person or fraternal, charitable or religious organization
34 willing to assume responsibility.

35 B. If none of the persons named in subsection A OF THIS SECTION is
36 willing or financially able to bury or provide other funeral and disposition
37 arrangements for a dead person, OR IF THE PERSON CANNOT BE LOCATED AFTER
38 REASONABLE EFFORTS HAVE BEEN MADE TO DO SO, the county in which death occurs
39 shall bury or place in a permanent care crypt the dead body or cremated
40 remains of a dead body ~~unless otherwise directed by a person named in~~
41 ~~subsection A, paragraph 1, 2 or 3, or by the written testamentary instruction~~
42 ~~of the decedent.~~ IF THE DECEDENT IS KNOWN TO BE AN HONORABLY DISCHARGED
43 VETERAN OR THE SURVIVING SPOUSE OF AN HONORABLY DISCHARGED VETERAN, THE
44 COUNTY SHALL NOTIFY THE VETERANS' ADMINISTRATION OR A LOCAL VETERAN'S
45 ORGANIZATION, OR BOTH, OF THE DEATH AND GIVE THAT ORGANIZATION THE

1 OPPORTUNITY TO PROVIDE FOR THE PERSON'S BURIAL OR FOR OTHER FUNERAL AND
2 DISPOSITION ARRANGEMENTS. IF THE ORGANIZATION IS UNABLE TO PROVIDE FOR THE
3 BURIAL OF THE VETERAN OR THE SURVIVING SPOUSE, THE COUNTY SHALL ENSURE THAT
4 THE DECEDENT IS PROPERLY INTERRED AND THAT BURIAL IS MADE IN A VETERANS'
5 CEMETERY OR A PORTION OF A CEMETERY THAT IS DESIGNATED FOR THE BURIAL OF
6 VETERANS AND SPOUSES OF VETERANS.

7 C. If the county medical examiner or person performing the duties of
8 the county medical examiner knows that the dead person is a member of a
9 federally recognized Native American tribe located in this state, the county
10 medical examiner or person performing the duties of the county medical
11 examiner must notify the tribe and give the tribe the opportunity to provide
12 for the person's burial or other funeral and disposition arrangements. If an
13 autopsy is required by section 11-597, the county medical examiner or person
14 performing the duties of the county medical examiner, if possible, shall
15 complete the autopsy and return the remains to the federally recognized
16 Native American tribe located in this state within four calendar days after
17 the determined date of death.

18 D. A person on whom the duty prescribed in subsection A OF THIS
19 SECTION is imposed who omits OR IS UNWILLING to perform that duty within a
20 reasonable time or is prohibited from performing that duty under subsection G
21 OF THIS SECTION is liable to the person performing the duty in an amount of
22 two times the expenses the person incurred in providing for the burial or
23 other funeral and disposition arrangements. The person who performs this
24 duty may recover this amount in a civil action.

25 E. Notwithstanding the probate requirements of title 14, if a county
26 is required to bury a person pursuant to subsection B OF THIS SECTION, the
27 county may recover the burial costs from the decedent's estate. A financial
28 institution in possession of monies in an account in the decedent's name must
29 reimburse the county for the burial costs on presentation by the county of an
30 affidavit that certifies:

- 31 1. The date of the decedent's death.
- 32 2. That pursuant to this section, the county performed the decedent's
33 burial.
- 34 3. The total burial costs incurred by the county.

35 F. A person, a corporation or an agency of government that provides
36 for the burial or other funeral and disposition arrangements on the
37 instructions of a person described in subsection A OF THIS SECTION is immune
38 from civil liability:

- 39 1. For failing to honor the wishes of the decedent or the wishes of a
40 person having a higher priority in subsection A or B OF THIS SECTION if the
41 person, corporation or agency of government was not aware, after reasonable
42 inquiry, of the contrary wishes.
- 43 2. For refusing to follow conflicting directions of persons having the
44 same priority in subsection A OF THIS SECTION.

1 3. For following directions of a personal representative that are
2 consistent with the written testamentary instructions of the decedent.

3 G. The duty to bury or to provide other funeral and disposition
4 arrangements devolves to the next person in the order prescribed pursuant to
5 subsection A OF THIS SECTION if the person who is otherwise responsible for
6 performing this duty is charged with the criminal death of the person to whom
7 the duty is owed. The person who performs this duty may recover costs as
8 prescribed in subsection D OF THIS SECTION. If the charges against the
9 person on whom this duty originally fell are subsequently dismissed or are
10 resolved in that person's favor on the merits, the person is responsible for
11 only the actual costs.

12 H. For THE purposes of this section, "person" includes a natural
13 person, a corporation, a company, a partnership, a firm, an association, a
14 society, the United States, this state, any territory, state or country, an
15 Arizona federally recognized Native American tribe, any political subdivision
16 of this state or a public or private corporation or partnership or
17 association.

18 I. For the purposes of this article, "burial" includes cremation.

APPROVED BY THE GOVERNOR APRIL 17, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 17, 2006.